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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

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11 CENTRAL VALLEY EDEN  
12 ENVIRONMENTAL DEFENDERS, LLC,

13 Plaintiff,

14 v.

15 RECYCO, INC.,

16 Defendant.

Case No. 1:22-cv-01532-JLT-SAB

ORDER VACATING FEBRUARY 28, 2023  
SCHEDULING CONFERENCE AND  
REQUIRING PLAINTIFF TO FILE A  
MOTION FOR DEFAULT JUDGMENT

**THIRTY DAY DEADLINE**

17 Plaintiff filed this action on November 28, 2022. (ECF No. 1.) On January 9, 2023, the  
18 Clerk of the Court entered default against Defendant pursuant to Plaintiff's request. (ECF Nos.  
19 8, 9.)

20 Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a two-  
21 step process. Yue v. Storage Technology Corp., No. 3:07-cv-05850, 2008 WL 361142, \*2 (N.D.  
22 Cal. Feb. 11, 2008). Entry of default is appropriate as to any party against whom a judgment for  
23 affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal  
24 Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed. R.  
25 Civ. P. 55(a). After entry of default, the plaintiff can seek entry of default judgment. Fed. R.  
26 Civ. P. 55(b)(1) and (2). "Default judgments are generally disfavored, and whenever it is  
27 reasonably possible, cases should be decided upon their merits." In re Hammer, 940 F.2d 524,  
28 (9th Cir. 1991) (internal punctuation and citations omitted).

1       As the Defendant in this matter is in default, the Court shall vacate the mandatory  
2 scheduling conference and set a deadline for a motion for default judgment to be filed.

3       Accordingly, IT IS HEREBY ORDERED that:

4       1.       Within **thirty (30) days** from the date of service of this order, Plaintiff shall file a  
5                   motion for default judgment;

6       2.       The scheduling conference set for February 28, 2023, is VACATED; and

7       3.       Plaintiff is advised that the failure to comply with this order shall result in a  
8                   recommendation that this action be dismissed for failure to prosecute.

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10      IT IS SO ORDERED.

11      Dated: February 7, 2023



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UNITED STATES MAGISTRATE JUDGE

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